

091807556 (5040)

RECEIVED

JAN 22 2002

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 15280-3711PC	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US99/25737	International filing date (day/month/year) 01 NOVEMBER 1999	Priority date (day/month/year) 02 NOVEMBER 1998
International Patent Classification (IPC) or national classification and IPC IPC(7): C07K 5/00; A61K 38/00 and US CL.: 514/12; 530/324		
Applicant THE GOVERNMENT OF THE UNITED STATES OF AMERICA AS REPRESENTED BY THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.
3. This report contains indications relating to the following items:
 - I Basis of the report
 - II Priority
 - III Non-establishment of report with regard to novelty, inventive step or industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

Date of submission of the demand 07 MAY 2000	Date of completion of this report 22 FEBRUARY 2001
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer SHEELA HUFF
Facsimile No. (703) 305-3230	Telephone No. (703) 308-0196

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/25737

I. Basis of the report1. With regard to the **elements** of the international application:* the international application as originally filed the description:

pages 1-36 _____, as originally filed

pages NONE _____, filed with the demand

pages NONE _____, filed with the letter of _____

 the claims:

pages 37-39 _____, as originally filed

pages NONE _____, as amended (together with any statement) under Article 19

pages NONE _____, filed with the demand

pages NONE _____, filed with the letter of _____

 the drawings:

pages 1-8 _____, as originally filed

pages NONE _____, filed with the demand

pages NONE _____, filed with the letter of _____

 the sequence listing part of the description:

pages 1-12 _____, as originally filed

pages NONE _____, filed with the demand

pages NONE _____, filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing: contained in the international application in printed form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages NONE the claims, Nos. NONE the drawings, sheets/fig NONE5. This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

**Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/25737

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. statement**

Novelty (N)	Claims 7, 15-20	YES
	Claims 1-6, 8-14, 21	NO
Inventive Step (IS)	Claims 7, 15-20	YES
	Claims 1-6, 8-14, 21	NO
Industrial Applicability (IA)	Claims 1-21	YES
	Claims NONE	NO

2. citations and explanations (Rule 70.7)

Claims 1-6, 8-14 and 21 lack novelty under PCT Article 33(2) as being anticipated by CUBO et al.

Figure 3 describes proteins that read on SEQ Id No. 2 and 4 of the instant invention.

Claims 1-5, 8-14 and 21 lack novelty under PCT Article 33(2) as being anticipated by ROSENBERG et al.

Figure 2 describes oECP which reads on SEQ Id No. 2 and 4 of the instant invention.

Claims 1-21 meet the criteria set out in PCT Article 33(4), because the instant invention can be used in the treatment of cancer.

Claims 7 and 15-20 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the instantly claimed invention.

----- NEW CITATIONS -----

NONE